

VIRGINIA BOARD OF DENTISTRY

Executive Committee

April 22, 2011 Agenda

Department of Health Professions
Perimeter Center - 9960 Mayland Drive, 2nd Floor Conference Center
Henrico, Virginia 23233

TIME

PAGE

9:00 a.m. Call to Order – Jacqueline G. Pace, RDH, Chair

- Approval of Minutes - September 10, 2009 **P.1-P.2**
- Adoption of Final Regulations for Registration of Mobile Dental Clinics and Portable Dental Operations **P.3-P.11**
- Adoption of Final Regulations for Recovery of Disciplinary Costs **P.12-P.16**

Adjourn

UNAPPROVED - DRAFT

**BOARD OF DENTISTRY
MINUTES OF EXECUTIVE COMMITTEE**

Thursday, September 10, 2009

Department of Health Professions
9960 Mayland Drive, 2nd Floor
Henrico, Virginia 23233
Board Room 4

CALL TO ORDER: The meeting was called to order at 4:15 p.m.

PRESIDING: Meera A. Gokli, D.D.S., President

MEMBERS PRESENT: Jacqueline Pace, R.D.H.
Paul N. Zimmet, D.D.S

MEMBER ABSENT: Jeffrey Levin, D.D.S.

OTHER BOARD MEMBERS PRESENT: Herbert R. Boyd, III, D.D.S.
Martha C. Cutright, D.D.S.
Robert B. Hall, D.D.S.
Myra Howard
Augustus A. Petticolas, D.D.S.

STAFF PRESENT: Sandra Reen, Executive Director

COUNSEL PRESENT: Howard Casway, Senior Assistant Attorney General

QUORUM: With three members present, a quorum was established.

PUBLIC COMMENT: None

APPROVAL OF MINUTES: Dr. Gokli requested a motion for approval of the minutes of the June 12, 2009 meeting of the Committee. Dr. Zimmet moved the approval of the minutes. The motion was seconded and passed.

BYLAWS AMENDMENT: Ms. Reen indicated that the proposed amendment was to address that members are expected to abide by the Code of Conduct that was adopted on June 12, 2009 and was issued as Guidance Document 60-9. Dr. Zimmet moved to recommend adoption of the revised bylaws to the Board. The motion was seconded and passed.

RECOVERY OF DISCIPLINARY COSTS: Ms. Reen advised that the NOIRA was still in administrative review so the Committee did not need to take any action at this meeting. Dr. Zimmet asked if the Board would be issuing a guidance document on the amounts to be charged.

Ms. Reen responded that the NOIRA discusses having such a policy in place so the amount being charged could be included in Orders.

**STANDARDS FOR
PROFESSIONAL CONDUCT:**

Mr. Casway thanked the Committee for allowing him to review the proposal considered at the June meeting. He reviewed a number of edits he had made to the document, stated that Dr. Levin had agreed to the changes made and advised that it was before the Committee to consider. Dr. Zimmet moved that the Committee recommend adoption of the Code at the December Board meeting. The motion was seconded and passed with an editorial amendment to delete the word "made" from the eighth bullet under Practitioner-Patient Communications.

**FY 2010 BUDGET AND
REVENUE AND
EXPENDITURE REPORT:**

Ms. Reen reported that the FY2010 budget information was provided to assist the Committee in following the cash flow of the Board in the coming months. She stated that reports on expenditures would be issued following the close of the first quarter then monthly thereafter and that these reports will be forwarded by e-mail for their review. She asked the Committee to review these reports carefully for discussion at meetings to monitor the need to increase fees.

**FY10-FY14 REVENUE
BUDGET PROJECTION:**

Ms. Reen reported that the current, revised projections show that the Board ended FY09 with a cash surplus instead of the anticipated deficit so a fee increase does not need to be considered at this time. She also advised that based on the current projections a fee increase may be needed in 2012 or 2013.

ADJOURNMENT:

With all business concluded, the Committee adjourned at 4:50 p.m.

Jeffrey Levin, D.D.S., President

Sandra K. Reen, Executive Director

Date

Date

**Agenda Item: Final Regulations for Registration of Mobile Dental Clinics
and Portable Dental Operations**

Included in agenda package:

Copy of proposed regulations

No comments in writing, electronically or at the public hearing

Action: Motion to adopt final regulations with no changes from the proposed regulations

Proposed Regulations – Comment Period closes on 3/4/11

BOARD OF DENTISTRY

Registration of mobile clinics

Part I

General Provisions

18VAC60-20-10. Definitions.

The following words and terms when used in this chapter shall have the following meanings unless the context clearly indicates otherwise:

"ADA" means the American Dental Association.

"Advertising" means a representation or other notice given to the public or members thereof, directly or indirectly, by a dentist on behalf of himself, his facility, his partner or associate, or any dentist affiliated with the dentist or his facility by any means or method for the purpose of inducing purchase, sale or use of dental methods, services, treatments, operations, procedures or products, or to promote continued or increased use of such dental methods, treatments, operations, procedures or products.

"Analgesia" means the diminution or elimination of pain in the conscious patient.

"Anxiolysis" means the diminution or elimination of anxiety through the use of pharmacological agents in a dosage that does not cause depression of consciousness.

"Conscious sedation" means a minimally depressed level of consciousness that retains the patient's ability to independently and continuously maintain an airway and respond appropriately to physical stimulation and verbal commands, produced by

pharmacological or nonpharmacological methods, including inhalation, parenteral, transdermal or enteral, or a combination thereof.

"Deep sedation/general anesthesia" means an induced state of depressed consciousness or unconsciousness accompanied by a complete or partial loss of protective reflexes, including the inability to continually maintain an airway independently and/or respond purposefully to physical stimulation or verbal command and is produced by a pharmacological or nonpharmacological method or a combination thereof.

"Dental assistant" means any unlicensed person under the supervision of a dentist who renders assistance for services provided to the patient as authorized under this chapter but shall not include an individual serving in purely a secretarial or clerical capacity.

"Direction" means the dentist examines the patient and is present for observation, advice, and control over the performance of dental services.

"Enteral" is any technique of administration in which the agent is absorbed through the gastrointestinal tract or oral mucosa (i.e., oral, rectal, sublingual).

"General supervision" means that the dentist has examined the patient and issued a written order for the specific, authorized services to be provided by a dental hygienist when the dentist is not present in the facility while the services are being provided.

"Inhalation" is a technique of administration in which a gaseous or volatile agent, including nitrous oxide, is introduced into the pulmonary tree and whose primary effect is due to absorption through the pulmonary bed.

"Inhalation analgesia" means the inhalation of nitrous oxide and oxygen to produce a state of reduced sensibility to pain without the loss of consciousness.

"Local anesthesia" means the loss of sensation or pain in the oral cavity or the maxillofacial or adjacent and associated structures generally produced by a topically applied or injected agent without depressing the level of consciousness.

"Mobile dental facility" means a self-contained unit in which dentistry is practiced that is not confined to a single building and can be transported from one location to another.

"Parenteral" means a technique of administration in which the drug bypasses the gastrointestinal tract (i.e., intramuscular, intravenous, intranasal, submucosal, subcutaneous, or intraocular).

"Portable dental operation" means a nonfacility in which dental equipment used in the practice of dentistry is transported to and utilized on a temporary basis at an out-of-office location, including patient's homes, schools, nursing homes or other institutions.

"Radiographs" means intraoral and extraoral x-rays of hard and soft tissues to be used for purposes of diagnosis.

18VAC60-20-30. Other fees.

A. Dental licensure application fees. The application fee for a dental license by examination, a license to teach dentistry, a full-time faculty license, or a temporary permit as a dentist shall be \$400. The application fee for dental license by credentials shall be \$500.

B. Dental hygiene licensure application fees. The application fee for a dental hygiene license by examination, a license to teach dental hygiene, or a temporary permit as a dental hygienist shall be \$175. The application fee for dental hygienist license by endorsement shall be \$275.

C. Duplicate wall certificate. Licensees desiring a duplicate wall certificate shall submit a request in writing stating the necessity for such duplicate wall certificate, accompanied by a fee of \$60.

D. Duplicate license. Licensees desiring a duplicate license shall submit a request in writing stating the necessity for such duplicate license, accompanied by a fee of \$20. If a licensee maintains more than one office, a notarized photocopy of a license may be used.

E. Licensure certification. Licensees requesting endorsement or certification by this board shall pay a fee of \$35 for each endorsement or certification.

F. Restricted license. Restricted license issued in accordance with § 54.1-2714 of the Code of Virginia shall be at a fee of \$285.

G. Restricted volunteer license. The application fee for licensure as a restricted volunteer dentist or dental hygienist issued in accordance with § 54.1-2712.1 or § 54.1-2726.1 of the Code of Virginia shall be \$25.

H. Returned check. The fee for a returned check shall be \$35.

I. Inspection fee. The fee for an inspection of a dental office shall be \$350.

J. Mobile dental clinic or portable dental operation. The application fee for registration of a mobile dental clinic or portable dental operation shall be \$250. The annual renewal fee shall be \$150 and shall be due by December 31. A late fee of \$50 shall be charged for renewal received after that date.

Part VIII.

Mobile dental clinics and portable dental operations.

18VAC60-20-332. Registration of a mobile dental clinic or portable dental operation.

A. An applicant for registration of a mobile dental facility or portable dental operation shall provide:

1. The name and address of the owner of the facility or operation and an official address of record for the facility or operation, which shall not be a post office address. Notice shall be given to the board within 30 days if there is a change in the ownership or the address of record for a mobile dental facility or portable dental operation;

2. The name, address and license number of each dentist and dental hygienist or the name, address and registration number of each dental assistant II who will provide dental services in the facility or operation. The identity and license or registration number of any additional dentists, dental hygienists or dental assistants II providing dental services in a mobile dental facility or portable dental operation shall be provided to the board in writing prior to the provision of such services;

3. The address or location of each place where the mobile dental facility or portable dental operation will provide dental services and the dates on which such services will be provided. Any additional locations or dates for the provision of dental services in a mobile dental facility or portable dental operation shall be provided to the board in writing prior to the provision of such services.

B. The information provided by an applicant to comply with subsection A of this section shall be made available to the public.

C. An application for registration of a mobile dental facility or portable dental operation shall include:

1. Certification that there is a written agreement for follow-up care for patients to include identification of and arrangements for treatment in a dental office which is permanently established within a reasonable geographic area;

2. Certification that the facility or operation has access to communication facilities that enable the dental personnel to contact assistance in the event of a medical or dental emergency;

3. Certification that the facility has a water supply and all equipment necessary to provide the dental services to be rendered therein;

4. Certification that the facility or operation conforms to all applicable federal, state and local laws, regulations and ordinances dealing with radiographic equipment, sanitation, zoning, flammability and construction standards; and

5. Certification that the applicant possesses all applicable city or county licenses or permits to operate the facility or operation.

D. Registration may be denied or revoked for a violation of provisions of § 54.1-2706 of the Code of Virginia.

18VAC60-20-342. Requirements for a mobile dental clinic or portable dental operation.

A. The registration of the facility or operation and copies of the licenses of the dentists and dental hygienists or registrations of the dental assistants II shall be displayed in plain view of patients.

B. Prior to treatment, the facility or operation shall obtain written consent from the patient or if the patient is a minor or incapable of consent, his parent, guardian or authorized representative.

C. Each patient shall be provided with an information sheet or if the patient, his parent, guardian or authorized agent has given written consent to an institution or school to have access to the patient's dental health record, the institution may be provided a copy of the information. At a minimum, the information sheet shall include:

1. Patient name, date of service and location where treatment was provided;
2. Name of dentist or dental hygienist who provided services;
3. Description of the treatment rendered and tooth numbers, when appropriate;
4. Billed service codes and fees associated with treatment;
5. Description of any additional dental needs observed or diagnosed;
6. Referral or recommendation to another dentist if the facility or operation is unable to provide follow-up treatment; and
7. Emergency contact information.

D. Patient records shall be maintained, as required by 18VAC60-20-15, in a secure manner within the facility or at the address of record listed on the registration application.

Records shall be made available upon request by the patient, his parent guardian or authorized representative and shall be available to the board for inspection and copying.

E. The practice of dentistry and dental hygiene in a mobile dental clinic or portable dental operation shall be in accordance with the laws and regulations governing such practice.

18VAC60-20-352. Exemptions from requirement for registration.

The following shall be exempt from requirements for registration as a mobile dental clinic or portable dental operation:

1. All federal, state or local governmental agencies;
2. Dental treatment which is provided without charge to patients or to any third party payer.

Agenda Item: Final Regulations for Recovery of Disciplinary Costs

Included in agenda package:

Copy of proposed regulations

Copy of written and electronic comments received

No comment at the public hearing

Action: Motion to adopt final regulations with no changes from the proposed regulations

Proposed Regulations – Comment Period closes 3/4/11

BOARD OF DENTISTRY

Recovery of disciplinary costs

18VAC60-20-18. Recovery of disciplinary costs.

A. Assessment of cost for investigation of a disciplinary case.

1. In any disciplinary case in which there is a finding of a violation against a licensee or registrant, the board may assess the hourly costs relating to investigation of the case by the Enforcement Division of the Department of Health Professions and, if applicable, the costs for hiring an expert witness and reports generated by such witness.

2. The imposition of recovery costs relating to an investigation shall be included in the order from an informal or formal proceeding or part of a consent order agreed to by the parties. The schedule for payment of investigative costs imposed shall be set forth in the order.

3. At the end of each fiscal year, the board shall calculate the average hourly cost for enforcement that is chargeable to investigation of complaints filed against its regulants and shall state those costs in a guidance document to be used in imposition of recovery costs. The average hourly cost multiplied times the number of hours spent in investigating the specific case of a respondent shall be used in the imposition of recovery costs.

B. Assessment of cost for monitoring a licensee or registrant.

1. In any disciplinary case in which there is a finding of a violation against a licensee or registrant and in which terms and conditions have been imposed, the costs for monitoring of a licensee or registrant may be charged and shall be calculated based on

the specific terms and conditions and the length of time the licensee or registrant is to be monitored.

2. The imposition of recovery costs relating to monitoring for compliance shall be included in the board order from an informal or formal proceeding or part of a consent order agreed to by the parties. The schedule for payment of monitoring costs imposed shall be set forth in the order.

3. At the end of each fiscal year, the board shall calculate the average costs for monitoring of certain terms and conditions, such as acquisition of continuing education, and shall set forth those costs in a guidance document to be used in the imposition of recovery costs.

C. Total of assessment.

In accordance with § 54.1-2708.2 of the Code of Virginia, the total of recovery costs for investigating and monitoring a licensee or registrant shall not exceed \$5,000, but shall not include the fee for inspection of dental offices and returned checks as set forth in 18VAC60-20-30 or collection costs incurred for delinquent fines and fees.



Logged in: DHP

Agency

Department of Health Professions

Board

Board of Dentistry

Chapter

Virginia Board of Dentistry Regulations [18 VAC 60 - 20]

Action	Recovery of disciplinary costs
Stage	Proposed
Comment Period	Ends 3/4/2011

Commenter: MSDS - From a Dr. in Portsmouth Virginia *

1/6/11

14892

I assume if there is no violation.

I then assume if no violation is found---the falsely alleged party by the same right should be allowed the same ability to charge for the hourly wage to DEFEND such an inappropriate charge----door should swing both ways folks!!!!!!

[Back to List Comments](#)

* Nonregistered public user

RECEIVED

MAR 02 2011

Board of Dentistry

Walter E. Saxon, Jr. DDS
P. O. Box 270
Dillwyn, VA 23936
434 983 2600

March 1, 2011

Ms. Sandra Reen, Executive Director
Board of Dentistry
Via Fax 804 527-4428

Re: Proposed regulation 18VAC60-20

Dear Ms. Reen:

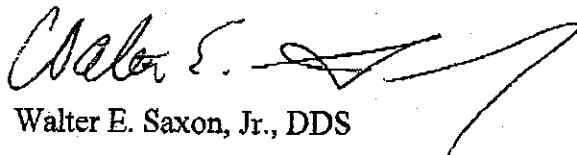
I am writing in regards to the proposed regulations for imposing certain costs in disciplinary actions before the Board of Dentistry.

First, considering the method that is proposed, I am assuming that there are procedures in place to insure that employees' time is spent productively. For example, personal texting, emails, reading the newspaper, browsing the web, etc. should not be permitted. If there are not, then that needs to be done.

Second, as I am reading A.3, the cost for any investigation is used in developing a guidance document. Considering that there are bogus or revenge complaints filed that are unfounded, I don't feel that those costs should be included in the calculations.

Finally, while I agree that costs that are recovered should return to the Board of Dentistry, I am concerned that a bureaucracy will do whatever is necessary to protect itself. I would like to see the Board of Dentistry setup a mechanism to prevent this.

Sincerely,


Walter E. Saxon, Jr., DDS